

EXHIBIT 12

Affidavit of Joseph R. Wheeler

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE**

**DEBORAH S. TEEPLES as Personal)
Representative of Charlotte S. Boze,)
Deceased,)**

Plaintiff,)

vs.)

BIC USA INC.,)

Defendant.)

**CASE NO. 3:20 –cv- 00941
Judge Campbell
Magistrate Judge Frensley
Jury Demand**

AFFIDAVIT OF JOSEPH R. WHEELER

**STATE OF TENNESSEE)
COUNTY OF DAVIDSON)**

The affiant, **JOSEPH R. WHEELER**, first being duly sworn, deposes and states as follows:

1. I am Joseph R. Wheeler, one of the counsel of record for defendant BIC USA Inc. (“BIC”) in this case. I am over the age of 18 and have personal knowledge of the matters stated herein.
2. I am advised that BIC was never notified of the Boze fire incident before the service of lawsuit papers in November, 2020. As such, BIC never had notice or an opportunity to investigate the incident scene of the fire before it was altered and evidence was lost or discarded.

3. Throughout the defense of this case, the only item of physical evidence claimed to have been in the Boze home at the time of the subject fire that has ever been produced by plaintiff for inspection by BIC, has been the Subject Lighter. Neither BIC nor its counsel were notified in advance that any other contents of the home were being sold, disposed of, or destroyed.
4. BIC and its counsel were not notified by plaintiff of the serious deterioration of Ms. Charlotte Boze's mental health or that her death was impending before Ms. Boze died on May 31, 2021. Had BIC and its counsel been informed of the seriousness of Ms. Boze's condition, efforts could have been made to obtain her testimony before her death. Instead, in the spring of 2021 BIC still was in the process of written discovery and obtaining necessary documents and records before setting party and witness depositions. The Court was advised of this and the anticipated 60-day timetable for scheduling witness depositions in a Joint Status Report submitted by both parties and filed on May 14, 2021; but no disclosure was made in this report of Ms. Boze's terminal condition or the need to schedule her deposition sooner. (Document 19). Ms. Boze died only a few days later on May 31, 2021 as confirmed by her previously-filed death certificate (Death Certificate, in Document 60-8).
5. BIC and its counsel also were not notified that Ms. Boze's home had been listed for sale or that it had been sold at any time before the sale occurred in May, 2021. BIC later had to arrange for examination of the home through permission of the subsequent owners. By the time BIC discovered this and was able to arrange an inspection, the contents of the room where the fire occurred had been changed and numerous items described by the plaintiff as having been present at the time of the fire in 2019, were no longer there. BIC

has obtained a certified copy of the recorded warranty deed (filed herewith as Exhibit 13), confirming that the home was sold on or about May 6, 2021. This fact also was not disclosed or mentioned in the Joint Status Report to the Court. (Document 19).

6. In response to inquiry from defense counsel, plaintiff's counsel Harris Yegelwel has confirmed in a recent telephone conference on October 13, 2023, that Deborah Teeple first contacted the Morgan & Morgan law firm on **February 18, 2020**. This is confirmed in the attached email of October 18, 2023. Defense counsel also requested confirmation of the date that counsel Yegelwel first communicated with Ms. Teeple, which has not been provided to date.

FURTHER AFFIANT SAITH NOT.



Joseph R. Wheeler

Sworn to and subscribed before me,
this 20th day of October, 2023.



Notary Public

My Commission Expires: 7.6.2026



Joseph R. Wheeler

From: Joseph R. Wheeler
Sent: Tuesday, October 17, 2023 5:49 PM
To: Harris Yegelwel x5039; Jason K. Murrie; Phillip Georges
Cc: Melanie P. Ayers
Subject: RE: Boze

Harris,

Following up on our discussion Friday, and your confirmation that Deborah Teeples first called Morgan & Morgan about the Boze matter on **February 18, 2020**.

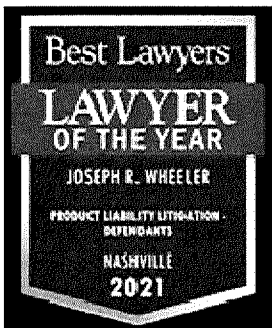
As discussed, please let us know when you first communicated with her if that information can be ascertained.

Many thanks,

--JRW



Joseph R. Wheeler
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From: Harris Yegelwel x5039 <hyegelwel@forthepeople.com>
Sent: Thursday, October 12, 2023 5:45 PM
To: Jason K. Murrie <jkmurrie@cclawtn.com>; Joseph R. Wheeler <jrwheeler@cclawtn.com>; Phillip Georges <phil@wolfpacklawyers.com>
Cc: Melanie P. Ayers <mpayers@cclawtn.com>
Subject: Re: Boze

Hi Jason:

I have an expert deposition from 10 AM EST until about 1:00 PM EST. I can speak later in the afternoon, as can Phil for a 10–15-minute call to “meet and confer” on the issue.

If you all would just pick a time later in the day tomorrow, we can hop on the phone.

Thanks,
Harris

Harris Yegelwel
Attorney
[My Bio](#)

P: (407) 418-2081
F: (407) 245-3392
A: 20 N Orange Ave, Suite 1600, Orlando, FL 32801



A referral is the best compliment. If you know anyone that needs our help, please have them call our office 24/7.

From: Jason K. Murrie <jkmurrie@cclawtn.com>
Date: Thursday, October 12, 2023 at 6:27 PM
To: Joseph R. Wheeler <jrwheeler@cclawtn.com>, Phillip Georges <phil@wolfpacklawyers.com>, Harris Yegelwel x5039 <hyegelwel@forthepeople.com>
Cc: Melanie P. Ayers <mpayers@cclawtn.com>
Subject: *EXT* RE: Boze

CAUTION: Use caution when clicking on links or opening attachments in this external email.

Phil and Harris,
Circling back around with you guys on this. Please let us know if you are agreeable to providing the requested information, and if not, we'll need to schedule a “meet and confer” on the issue. Joe and I have some availability tomorrow to discuss if that works on your end. Just let us know.
Thanks,
Jason



Jason K. Murrie
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615-244-1440
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From: Joseph R. Wheeler <jrwheeler@cclawtn.com>
Sent: Friday, October 6, 2023 9:59 AM
To: Phillip Georges <phil@wolfpacklawyers.com>; Harris Yegelwel <hyegelwel@forthepeople.com>
Cc: Jason K. Murrie <jkmurrie@cclawtn.com>; Melanie P. Ayers <mpayers@cclawtn.com>
Subject: RE: Boze

Gentlemen,

Regarding the Court's inquiry as to when counsel were first contacted / consulted by the Boze family regarding this incident, will you please confirm for us the date that counsel were first called or contacted, and provide any confirming documentation of the date such contact occurred? We also would request the names / employers of the persons involved in initial communications with the Boze family.

Thank you,

--JRW



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From: Phillip Georges <phil@wolfpacklawyers.com>
Sent: Wednesday, October 4, 2023 11:16 PM
To: Joseph R. Wheeler <jrwheeler@cclawtn.com>; Brett Windrow <brett@wolfpacklawyers.com>; Bianca Bryant <bianca@wolfpacklawyers.com>
Cc: Melanie P. Ayers <mpayers@cclawtn.com>; Jason K. Murrie <jkmurrie@cclawtn.com>;
BozeCharlotteZ11206039@projects.filevine.com
Subject: Re: Boze

Joseph: